



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2009 Biennium

<b>Bill #</b>	HB0793	<b>Title:</b>	Tax credit for contributions to school tuition organization
<b>Primary Sponsor:</b>	Wells, Jack	<b>Status:</b>	As Introduced

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Significant Local Gov Impact     | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns   |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts           | <input type="checkbox"/> Dedicated Revenue Form Attached |

### FISCAL SUMMARY

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
<b>Expenditures:</b>				
General Fund	\$41,562	\$33,610	\$34,450	\$35,312
<b>Revenue:</b>				
General Fund	(\$20,471,056)	(\$21,133,777)	(\$21,620,485)	(\$22,118,860)
<b>Net Impact-General Fund Balance</b>	<u>(\$20,512,618)</u>	<u>(\$21,167,387)</u>	<u>(\$21,654,935)</u>	<u>(\$22,154,172)</u>

**Description of fiscal impact:** HB 793 would create a tax credit up to \$2,000 for an individual or corporation that makes a donation to a defined school tuition organization that provides scholarships for students to attend preschools for children with disabilities, private elementary or secondary schools, and specified colleges and universities. The schools must be located within Montana.

### FISCAL ANALYSIS

#### Assumptions:

#### **Department of Revenue (DOR)**

1. This legislation creates a tax credit for charitable donations to school tuition organizations up to a maximum credit of \$2,000.
2. During 2005, 169,449 Montana taxpayers reported charitable deductions equal to \$532,022,411. The National Center for Charitable Statistics reports that 12% of Montana's charitable nonprofits are in the education field. This fiscal note assumes that half of the educational nonprofits would fit the definition of school tuition organization given in the proposed legislation. Therefore, approximately \$31,921,345, or 6% of the \$532,022,411, of donations claimed as a deduction would be eligible for the credit.

3. The credit can be claimed on 100% of the amount donated to the school tuition organization, up to a maximum of \$2,000. The amount claimed on the \$31,921,345 donations in 2005 would have been \$21,621,490.
4. The proposed credit is nonrefundable, although the unused portion of the credit can be carried over to future tax years. This fiscal note assumes that the carry-over provision has no fiscal impact. On average, 93% of nonrefundable individual income tax credits (\$21,621,490) are used to decrease tax liability. The amount of the credit that would have been used to decrease tax liability in 2005 is \$20,107,986.
5. The charitable gift used to claim the credit cannot be used to claim a deduction, resulting in an offset to the cost of this credit. The estimated offset amount would be \$1,262,039 in 2005. The cost of the proposed credit, had it been in place during 2005, would be \$18,845,947.
6. Growing this amount by the charitable contribution growth assumption in the HJR 2 revenue estimates, the estimated credit claimed would be \$20,111,749 in tax year 2007, \$20,608,510 in tax year 2008, \$21,068,079 in tax year 2009, and \$21,537,898 in tax year 2010.

<u>Calendar Year</u>	<u>Growth Rate</u>	<u>Individual Contributions</u>
<b>2005</b>		(\$18,845,947)
<b>2006</b>	103.82%	(\$19,565,862)
<b>2007</b>	102.79%	(\$20,111,749)
<b>2008</b>	102.47%	(\$20,608,510)
<b>2009</b>	102.23%	(\$21,068,079)
<b>2010</b>	102.23%	(\$21,537,898)

7. Similar information is not collected from Montana corporate income tax forms. However, the proposed credit provided for corporations is more generous than the charitable endowment credit. Therefore, this fiscal note assumes that all corporations will choose to donate to school tuition organizations rather than endowments. In calendar year 2004, 12,881 corporations claimed \$120,498 of charitable endowment credit on \$602,490 of charitable gifts. The proposed credit that could be claimed on this gift amount would have been \$429,420. Using growth estimates developed by DOR based on corporate endowment credit growth, the cost of the proposed credit claimed by corporations would be at least \$499,458 in tax year 2007, \$525,267 in tax year 2008, \$552,406 in tax year 2009, and \$580,962 in tax year 2010.
8. Under current law, the charitable endowment credit expires at the end of tax year 2007. However, there is an offset from the corporations claiming the proposed credit, rather than the endowment credit, for tax year 2007. The estimated amount of charitable endowment credit, or the offset, is \$140,151. Therefore, the cost of the proposed credit claimed by corporations would be:

<u>Calendar Year</u>	<u>Corporation Gifts</u>	<u>Corporation Charitable Endowments</u>	<u>Corporation Contributions</u>
<b>2007</b>	(\$499,458)	\$140,151	(\$359,307)
<b>2008</b>	(\$525,267)		(\$525,267)
<b>2009</b>	(\$552,406)		(\$552,406)
<b>2010</b>	(\$580,962)		(\$580,962)

9. The total cost of this legislation is estimated to be:

<u>Calendar Year</u>	<u>Individual Contributions</u>	<u>Corporation Contributions</u>	<u>Total Contributions</u>
<b>2007</b>	(\$20,111,749)	(\$359,307)	(\$20,471,056)
<b>2008</b>	(\$20,608,510)	(\$525,267)	(\$21,133,777)
<b>2009</b>	(\$21,068,079)	(\$552,406)	(\$21,620,485)
<b>2010</b>	(\$21,537,898)	(\$580,962)	(\$22,118,860)

10. Credits for a tax year would be claimed on tax returns filed the following spring. Credits for a tax year will reduce revenue in the next higher numbered fiscal year.
11. The Department of Revenue would require 0.50 FTE to ensure the credit is being taken on eligible contributions. The total administrative costs are \$41,562 in FY 2008, \$33,610 in FY 2009, \$34,450 in FY 2010, and \$35,312 in FY 2011.
12. Inflation in the 2011 biennium is assumed to be 2.5% per year from the FY 2009 amounts for personal services and operating expenses.

#### **Office of Public Instruction**

13. A school tuition organization is a non-profit organization that allocates at least 90% of its annual revenue for educational scholarships or tuition grants to children to allow them to attend any qualified school of their parent's choice.
14. A qualified school is a private pre-school, primary school, secondary school, or private or public post-secondary school located in Montana. It does not include home schools.
15. Private K-12 schools report enrollments to the Office of Public Instruction each fall. The table below shows the number of students enrolled in private schools in FY 2004 through FY 2007.

<u>Private School Enrollment</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>
<b>Kindergarten</b>	667	780		899
<b>Grades 1-8</b>	5,054	5,199	5,163	5,486
<b>Grades 9-12</b>	<u>2,097</u>	<u>2,185</u>	<u>2,060</u>	<u>2,069</u>
<b>TOTAL</b>	7,818	8,164	8,064	8,454

16. The tax credit is effective for tax year 2007 and beyond.

	<b><u>FY 2008 Difference</u></b>	<b><u>FY 2009 Difference</u></b>	<b><u>FY 2010 Difference</u></b>	<b><u>FY 2011 Difference</u></b>
<b><u>Fiscal Impact:</u></b>				
FTE	0.50	0.50	0.50	0.50
<b><u>Expenditures:</u></b>				
Personal Services	\$27,664	\$27,664	\$28,356	\$29,064
Operating Expenses	\$7,998	\$5,946	\$6,095	\$6,247
Equipment	\$5,900	\$0	\$0	\$0
<b>TOTAL Expenditures</b>	<b>\$41,562</b>	<b>\$33,610</b>	<b>\$34,450</b>	<b>\$35,312</b>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	\$41,562	\$33,610	\$34,450	\$35,312
<b><u>Revenues:</u></b>				
General Fund (01)	(\$20,471,056)	(\$21,133,777)	(\$21,620,485)	(\$22,118,860)
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
General Fund (01)	(\$20,512,618)	(\$21,167,387)	(\$21,654,935)	(\$22,154,172)

**Long-Range Impacts:**

This legislation would continue to have a negative fiscal impact in future years.

**Technical Notes:****Department of Revenue**

1. The proposed legislation disallows the tax credit for contributions for the direct benefit of the taxpayer's dependents. This provision is easily circumvented because the legislation does not prohibit the credit being claimed on all contributions designated for a particular student. The credit could be claimed for donations to family members not claimed as dependents or other specific beneficiaries.
2. The information that the school tuition organization is required to submit to the Department does not include any information that would be helpful in verifying that the credit was not claimed on contributions for the direct benefit of the taxpayer's dependents.
3. The term "child with a disability" is defined, but not used in the proposed legislation. "Children with a disability" is used.
4. There are no provisions allowing pass-through entities to take this credit or describing how pass-through entities would distribute the credit among members.
5. Language should be added to clarify that corporations cannot take the endowment credit and the proposed credit on the same gift amount. This fiscal note assumes that this clarification is made.

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*Sponsor's Initials*


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*Date*


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*Budget Director's Initials*


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*Date*